

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 58th LEGISLATURE - REGULAR SESSION

COMMITTEE ON STATE ADMINISTRATION

Call to Order: By **CHAIRMAN DEBBY BARRETT**, on January 20, 2003 at 9 A.M., in Room 455 Capitol.

ROLL CALL

Members Present:

Rep. Debby Barrett, Chairman (R)
Rep. Dee Brown, Vice Chairman (R)
Rep. Larry Jent, Vice Chairman (D)
Rep. Norman Ballantyne (D)
Rep. Arlene Becker (D)
Rep. Sue Dickenson (D)
Rep. Carol Gibson (D)
Rep. Daniel S. Hurwitz (R)
Rep. Hal Jacobson (D)
Rep. Ralph Lenhart (D)
Rep. Alan Olson (R)
Rep. Bernie Olson (R)
Rep. Don Roberts (R)
Rep. Clarice Schrumpf (R)
Rep. Pat Wagman (R)
Rep. Jonathan Windy Boy (D)
Rep. Cindy Younkin (R)

Members Excused: Rep. Larry Lehman (R)
Rep. Frank Smith (D)

Members Absent: None.

Staff Present: Joan Reiman, Committee Secretary
Sheri Heffelfinger, Legislative Branch

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed. Time counters precede the testimony.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 138, 1/15/2003
Executive Action: HB 63 DO PASS, HB 167 DO PASS,
HB 109 No Action, HB 309 No Action

HEARING ON HB 138

Sponsor: REP. DAVE LEWIS, HD 55

Opening Statement by Sponsor:

{Tape: 1; Side: A; Approx. Time Counter: 0 - 3.6}

REP. LEWIS explained that this bill allows more public notice of school board meetings. He said the fiscal note tells the statewide cost, which looks overwhelming, but the cost is manageable on a district-wide basis. He said the benefit is more public disclosure and participation.

Proponents' Testimony:

{Tape: 1; Side: A; Approx. Time Counter: 3.6 - 7.2}

Barbara Rush provided Exhibit 1. She said elections are not at regular, standard times, so people don't know when the elections are. People are sometimes recruited by the school without notices being posted.

EXHIBIT(sth11a01)

Joe Lamson, Office of Public Instruction (OPI), testified for OPI Superintendent Linda McCullough, and said he shares technical concerns of this bill. He said the costs listed are for large media, which are expensive, but that the bill is necessary because some districts are having trouble recruiting.

Opponents' Testimony:

{Tape: 1; Side: A; Approx. Time Counter: 7.2 - 13.4}

Bob Vogel, Montana School Boards Association (MSBA), said the intent of the bill is good, but there are technical problems with the cost of \$87,000/year. His suggestion is to have reporters cover the school board and have notices given using radio PSAs. He wants Sec. 1 as a resolution, merely encouraging public participation.

Dave Puyer, Montana Rural Education Association, had several objections. The bill would be all right if it involved just Helena, but all districts will be saddled with the requirements, he predicted. Rural communities are concerned that many have only

weekly newspapers and some have no newspaper. He contradicted what the sponsor said about problems with turnout and confusion about who's running. Instead, he characterized rural folks as well-informed. But some areas have no radio station in their area, and this requirement "is just one more expense."

Lynda Brannon, Montana Association of School Business Officials (MASBO), said there are too many cost problems. She added, school bulletins are an not an option for giving notice under the bill; it must be a legal notice. She said the bill is a good idea, but only as a resolution.

Questions from Committee Members and Responses:

{Tape: 1; Side: A; Approx. Time Counter: 13.4 - 24.8}

REP. CINDY YOUNKIN asked if the sponsor considered this bill an unfunded mandate to schools. **REP. LEWIS** said per-district costs would probably not exceed a couple hundred dollars. **REP. HAL JACOBSON** asked if the noticing could be satisfied by having three press releases sent with a request to print them on three successive weeks, rather than on specific dates. **The sponsor** said he had misgivings about it. One approach would be to notify only A and AA School districts. A compromise would be to eliminate rural districts from the noticing requirement. **REP. JACOBSON** asked if Bob Vogel would favor these two suggestions. **Mr. Vogel** said yes, but his concern with A and AA districts is how to treat elementary schools. In a unified district the Boards meet together. The fiscal note, item 5, mentioned a six column-inch ad, which would cost approximately \$1,000/year and would be buried on the back pages. **REP. RALPH LENHART** asked how many unified districts are in the state. **Mr. Vogel** said he will get that information. **REP. NORMAN BALLANTYNE** asked why the ad should be so large when classified ads are cheaper. **REP. LEWIS** said he wanted an ad large enough to be seen. **REP. BALLANTYNE** mentioned working out an amendment with **REP. JACOBSON**. **REP. LEWIS** agreed and said the total spent on K-12 education is \$1 billion/year. "It's worth a few bucks to give more notice," he said. "Some elections have only one candidate and there's not enough profile given to these elections," he added.

Closing by Sponsor:

{Tape: 1; Side: A; Approx. Time Counter: 24.3 - 24.8}

REP. LEWIS closed and said he was open to amendments.

EXECUTIVE ACTION ON HB 63

{Tape: 1; Side: A; Approx. Time Counter: 24.8 - 36}

Motion: REP. YOUNKIN moved HB 63 DO PASS.

Discussion:

REP. JONATHAN WINDY BOY provided and read Exhibit 2, two documents, one from Department of Fish, Wildlife and Parks (FWP), and a letter to Carl Venne. CHAIRMAN BARRETT emphasized this is not a FWP bill, and the reasons for prioritizing funding have been addressed at the parks in question. CHAIRMAN BARRETT was given Exhibit 3, a letter from the chair of the Friends of Chief Plenty Coups Association. REP. LENHART voiced his opposition to the bill. REP. CAROL GIBSON agreed all the work has not been done at Chief Plenty Coups Park, but all the money has been obligated, and other parks need help. REP. DAN HURWITZ asked about the rest of the restoration. CHAIRMAN BARRETT affirmed that the rest of the work is under contract. REP. LARRY JENT referred to the original handout from Doug Monger, indicating that FWP is "on the hook" for the contracts. The mission of the original act has thus been met. He urged do pass. Question was called.

EXHIBIT(sth11a02)

EXHIBIT(sth11a03)

Vote: On a voice vote, motion carried 18-1, with REPS. LARRY LEHMAN and FRANK SMITH voting aye by proxy and REP. WINDY BOY voting no.

EXECUTIVE ACTION ON HB 167

{Tape: 1; Side: A; Approx. Time Counter: 36 - 40.5}

Motion: REP. CLARICE SCHRUMPF moved HB 167 DO PASS.

Motion: REP. SCHRUMPF moved HB 167 AMENDMENTS.

Discussion:

REP. SCHRUMPF mentioned opposition from attorneys on this bill to revise state record management laws. CHAIRMAN BARRETT said the Secretary of State does not want amendments. REP. BROWN said she is a member of the Audit Committee, and they want to clean up the way we do business. She urged DO PASS. REP. ALAN OLSON said he is in favor. Last session, he said, they had a bill that would have required keeping all sticky notes; it was tabled several

times. He said HB 167 is a good bill. **REP. SCHRUMF** said if this bill was in effect 20 years ago, the state would have saved \$67,000; this bill is overdue. Question was called.

Vote: Amendment **carried 19-0** on a voice vote with **REPS. LEHMAN & SMITH** voting by proxy.

Motion: **REP. CLARICE SCHRUMPF** moved **HB 167 DO PASS AS AMENDED**.

Vote: Motion **HB 167 DO PASS AS AMENDED** **carried 19-0** on a voice vote with **REPS. LEHMAN & SMITH** voting by proxy.

EXECUTIVE ACTION ON HB 109

{Tape: 1; Side: A; Approx. Time Counter: 40.5 - 42.4}

REP. YOUNKIN said she had requested amendments. **CHAIRMAN BARRETT** said they would wait and take action tomorrow. **REP. SMITH** returned.

EXECUTIVE ACTION ON HB 309

{Tape: 1; Side: A; Approx. Time Counter: 42.4 - 66}

Note: Tape 1 was not used on Side B.

{Tape: 2; Side: A; Approx. Time Counter: 0 - 13.2}

Motion: **REP. YOUNKIN** moved **HB 309 DO PASS**.

Discussion:

REP. JENT said the bill would give the Secretary of State powers not in the Constitution. He said it would establish a 1% criterion, which the Districting and Apportionment Commission did not establish at the start, and that this bill has to do with the Voting Rights Act. He cited South Dakota being audited by Department of Justice because of voting rights problems. Legally, the Secretary of State could have a writ of mandamus filed against him if the bill passes. To fix this problem, Montana needs a Constitutional amendment and this bill is not the way to do it, he said. **REP. JACOBSON** said if the Secretary of State becomes an adjudicator, then we need a fiscal note for this bill. **REP. ALAN OLSON** replied that the Secretary of State is not under the general fund, so there need be no fiscal note. There is no fiscal impact.

REP. WINDY BOY said this puts the cart before the horse. He said he knows this bill will pass but there is a public comment

hearing today at 4 pm. This bill throws out the resources spent on the Commission's hearings. He wants a legal opinion from Legal Services. **CHAIRMAN BARRETT** replied, "We have two issues here, HB 309 before us now and the hearing of the Districting and Apportionment Commission later today, to get legislative and public comment on this whole issue."

REP. JACOBSON said **REP. OLSON** made a good point, but the issue of paying remains. **REP. HURWITZ** asked if it made a difference if they did this bill now or after today's hearing. **REP. JENT** replied they are not tied together. **REP. BERNIE OLSON** said the greatest discrepancy was in his district, in Flathead County. He also mentioned discrepancies in the district of Silver Bow. The Supreme Court did not expect them to use 5% as the norm; it is so blatant, he said. **REP. BALLANTYNE** said Plan 300 did not take away the right to vote. He said his district was conservative but they elected him because of his hard work. He urged members to honor the Constitution.

REP. ALAN OLSON said the tribes deserve to be represented but the 5% rule was not supposed to be used so broadly. He named towns that were split into different districts: Anaconda, Lewistown, Whitefish, Ronan and Sunburst. The rule was not fairly applied and the Commission was political, he stated. **REP. SUE DICKENSON** said the previous Commission was not all consensus. The issue here is the process; these are legitimate concerns, but not addressed properly, she remarked. A court challenge is inevitable, she warned. **REP. LENHART** asked **REP. JENT** what the legal cost would likely be if challenged in court. **REP. JENT** estimated it could cost six figures if the U.S. Justice Department gets involved over the Voting Rights Act. **REP. ARLENE BECKMAN** said 1% of the population in a district would be about 80 people. Given this is a rural state, she said the 1% standard is not practicable.

REP. DON ROBERTS said the Commission is using leverage, and that doughnuts are growing around Republican districts. As they grow, the plan becomes structurally unbalanced, he claimed. **REP. WINDY BOY** asked who will pay the costs if this case goes to court. **REP. JENT** responded, "If a private party is the plaintiff, it comes from the general fund. It could cost \$30,000-40,000 just in fees to expert witnesses." **REP. JENT** addressed Sec. 4-6 of the bill. He cautioned if the court "whacks part of the law, the rest stands." He said there is also a problem with due process when the rules change after a hearing has been made.

REP. BROWN asked if 1% of Montana's population is 9,000. **REP. JENT** replied that for a House district, 1% is 90 people. With a 5% rule, it's 450 people. **REP. LENHART** said he is against the bill. **REP. SMITH** said regarding the doughnut around a city, they don't know how population will shift and they should not be trying to bend the law. **CHAIRMAN BARRETT** said she sees the bill as providing guidance to the Districting and Apportionment Commission about criteria to use, and she supports it.

Vote: On a roll call vote, motion **failed 9-10**. Voting aye were **CHAIRMAN BARRETT, REPS. BROWN, ALAN OLSON, BERNIE OLSON, ROBERTS, SCHRUMPF, WAGMAN and YOUNKIN**. **REP. LEHMAN** voted aye by proxy.

ADJOURNMENT

Adjournment: 10:20 A.M.

REP. DEBBY BARRETT, Chairman

JOAN REIMAN, Secretary

DB/JR

EXHIBIT (*sth11aad*)